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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,327	03/10/2004	Pascal LaCroix		4265

7590 09/21/2005

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12 East 41st Street
New York, NY 10017

EXAMINER

LAVINDER, JACK W

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

MC

Office Action Summary

Application No.

10/797,327

Applicant(s)

LACROIX, PASCAL

Examiner

Jack W. Lavinder

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/10/04</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Wiriath, 5161392 in view of Natural Stone Jewelry & Gifts by KVK Designs (KVK).

Regarding claims 1 and 2, Wiriath discloses first and second annular pieces (4a, 4b) forming a setting for a center piece (1). Wiriath fails to disclose the bands being made from semi-precious stone.

KVK discloses that it is old and well known to make rings from semi-precious stone (jade).

It would have been an obvious design choice to make Wiriath's bands from semi-precious stone in order to improve the appearance of the ring and to appeal to buyers having a liking for all natural stone rings.

Regarding claim 3, it would have been an obvious design choice to make the first band transparent or translucent and the second band opaque in order to improve the aesthetical appearance of the ring.

3. Claims 4-17 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Meyrowitz, 5228316 in view of KVK.

Regarding claims 4-6, Meyrowitz discloses first and second annular pieces (12, 14) forming a setting for a center piece (16 or 84) and a center gemstone comprising a plurality of precious gemstones (58, column 1, second paragraph) being set so that the pavilions of each gemstone are adjacent in an annular direction about the rings and the girdle of each stone touches the girdle of the adjacent stone (figure 1). Meyrowitz fails to disclose the bands being made from semi-precious stone.

KVK discloses that it is old and well known to make rings from semi-precious stone (jade).

It would have been an obvious design choice to make Meyrowitz's bands from semi-precious stone in order to improve the appearance of the ring and to appeal to buyers having a liking for all natural stone rings.

Regarding claim 7, Meyrowitz discloses a means for supporting the semiprecious stones (20, 50 and the inner support surfaces 32, 52).

Regarding claims 8, 11, 17, Meyrowitz discloses a first bracket (54), a second bracket (56), diamonds (58) set between the brackets, the brackets set between the bands (12, 14), which have been modified by KVK to be stone, an axial brace (18, 36) biasing, via the threads, the bands toward each other and against the brackets for setting the diamonds.

Regarding claim 9, Meyrowitz discloses contact between the brackets (54, 56) and the brace (18, 36, figure 2).

Regarding claim 10, Meyrowitz discloses baskets formed by the two brackets and the bottom of the central band (16), wherein each basket also has an opening on

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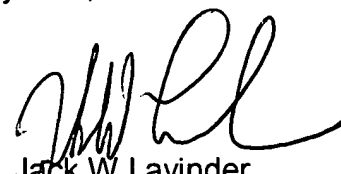
the bottom (figure 1). Meyrowitz's baskets grip the crown, girdle and pavilion of the diamond (58, figure 2) and is capable of gripping substantially half of the pavilion of a diamond having a smaller pavilion height than shown in Meyrowitz.

Regarding claims 12-16, it would have been an obvious design choice to make the first band transparent or translucent and the second band opaque or to make each stone have the same color or different colors or make the stones from a plurality of different stones in order to improve the aesthetical appearance of the ring.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jack W. Lavinder whose telephone number is 571-272-7119. The examiner can normally be reached on Mon-Friday, 9-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jack W Lavinder
Primary Examiner
Art Unit 3677

9/19/05